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Acting Secretary

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

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Arnold
Schwarzenegger
Governor

May 19, 2006

Mr. Garrett Hinds
Trumark Companies
4185 Blackhawk Plaza Circle
Suite 200
Danville, CA 94506

Dear Mr. Hinds:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Dutton Meadows Phase I Project, Sonoma County

File: Dutton Meadows Phase I Project (APNs 043-071-07, -22, -23)
Sonoma County, WDID No. 1B01099WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). On September 9, 2005, the Regional Water Board received an application and \$15,055.50 processing fee from Mr. Garrett Hinds, on behalf of Trumark Companies (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for a combination of five properties (Lechmanski, Peletz, Nelson, Minoia, and DM Associates, LLC) collectively referred to as the Dutton Meadows Project, located on 56.88 acres in Santa Rosa, Sonoma County. This Water Quality Certification Order exclusively covers the Dutton Meadows Phase I Project located at 2650, 2666 and 2684 Dutton Meadows (APNs 043-071-07, -022, -23).

On February 1, 2002, Water Quality Certification was issued to Mr. Tux Tuxhorn of the Tuxhorn Company for the Bellevue Ranch Phase 8 Project located at 2650 and 2684 Dutton Meadows, Santa Rosa, Sonoma County (WDID No. 1B01060WNSO). On March 5, 2002, the Water Quality Certification Order was amended to reflect the change in property ownership to Mr. Garrett Hinds of Trumark Companies. This Order, WDID No. 1B01099WNSO, hereby takes precedence over the previous order issued for the Bellevue Ranch Phase 8 Project and the previous order (WDID No. 1B01060WNSO) is rescinded.

Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The project will cause permanent impacts to seasonal wetlands associated with Colgan Creek and the Russian River Hydrologic Unit No.114.00.

Project Description: The Dutton Meadows Phase I Project (Project) is located in the southwestern section of Santa Rosa, Sonoma County, and is bordered on the north by Hearn Avenue and on the west by S. Dutton Avenue. The Project is located at 2650, 2666 and 2684 Dutton Meadow (formerly known as Dutton Avenue) and has a total area of 12.0 acres. The purpose of this project is to develop the 12.0 acres for residential use.

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Phase I consists of the construction of 127 lots, 4 parcels, and a 1.13-acre affordable housing site for 35 condominiums. The units of the project will be accessible by common driveways in the rear of the lots. Three of the four parcels consist of common areas for use by the homeowners of the subdivision and will be maintained by the Homeowners Association. One of these three parcels (Parcel D) will involve the installation of a detention pond in order to treat storm water runoff from Phase I. The fourth parcel will be offered to the Bellevue Union School District.

The development of the project will be built and sold in phases based on market demand, which is expected to result in the project being fully constructed within a two- to four-year time period. Model homes and the first phases of production homes will be constructed in 2006. Grading is expected to begin in the spring of 2006. Pre-construction Best Management Practices (BMPs) have been incorporated into the final project plans in order to reduce and control soil erosion. In the event that construction activities take place during the wet season months of October 15th through June 15th, additional winterization BMPs will be implemented in order to stabilize all bare soils.

Post-construction storm water treatment controls have been incorporated into the project in order to decrease potential detrimental impacts associated with storm water runoff from the developed site. Source control BMPs are also incorporated into the project including: installation of open space areas, wide planter strips, drain inlet marking, native landscape materials, reducing irrigation needs, and promoting public awareness on the importance of storm water pollution prevention through educational brochures, signage, and creek stewardship programs.

Receiving Water:	Colgan Creek, Laguna Hydrologic Sub Area No. 114.21, Russian River Hydrologic Unit No. 114.00
Federal Permit:	Pending U.S. Army Corps of Engineers Individual 404 Permit (File Number 26342N)
State and Local Approvals:	Not Applicable
Filled or Excavated Area:	<u>Total Area Impacted: 0.16 acres of wetland habitat</u> Area Temporarily Impacted: 0.00 acres Area Permanently Impacted: 0.16 acres
Compensatory Mitigation Overview:	<u>Total Mitigation Area: 0.16 acres</u> Wetland Created/Restored: 0.00 acres Wetland Enhanced: 0.16 acre Wetland Existing (Avoided): 0.00 acre

**Compensatory
Mitigation:**

Approximately 0.16 acres of seasonal wetland habitat was previously filled on the Dutton Meadows Phase I property in accordance with U.S. Army Corps of Engineers (File No. 24554N) and with the Regional Water Board authorization (WDID No. 1B01061WNSO – Bellevue Ranch, Phase 8). The entire proposed Dutton Meadows project directly affects approximately 54.43 acres of upland habitat presumed to provide aestivation habitat for the endangered California tiger salamander (CTS). The wetland habitat impacted on-site is also potential habitat for Sebastopol meadowfoam, Sonoma sunshine and Burke's goldfields.

Compensatory mitigation for permanent impacts to 4.37 acres (1.97 acres Waters of the U.S., 2.4 acres Waters of the State), and for impacts to suitable habitat for federally listed plant species and California tiger salamander (*Ambystoma californiense*) (CTS), will be achieved as outlined in *Wetland and Endangered Species Mitigation Plan Gobbi Preserve No. 2* dated November 30, 2004. Mitigation for the Dutton Meadows Projects included the creation of 1.66 acres and the restoration of 4.0 acres of wetland habitat for a final mitigation ratio of 1.25:1, in addition to the establishment of the 108.8 acre Gobbi Preserve No. 2. Construction of the wetlands and establishment of the preserve has already been approved and began in Fall 2005 (WDID No. 1B04163WNSO). The Preserve is located between Stony Point and Llano Roads, south of Todd Road, and just outside the limits of the City of Santa Rosa.

**Non-compensatory
Mitigation:**

A Preliminary Storm Water Pollution Mitigation Plan for the Minoia Property (SWPMP) was developed on April 6, 2005, with maps updated in February 2006. According to the SWPMP, source control BMPs will be incorporated into the project including: installation of unconnected downspouts, open space areas, wide planter strips, drain inlet marking, native landscape materials, and promoting public awareness on the importance of storm water pollution prevention through educational brochures, signage, and creek stewardship programs. Submittal of a Storm Water Pollution Prevention Plan (SWPPP) to the Regional Water Board will be required prior to the commencement of construction activities.

**Post-Construction
Storm Water
Pollution Prevention:**

In addition, to deal with the Regional Water Board's requirement to provide post-construction storm water treatment for the proposed project, the Applicant will install a detention basin as described in the SWPMP. The detention basin was designed according to calculations used to determine the size needed to treat the runoff from the 85th percentile storm event. Failure to implement the treatment plan as described in the above-referenced plan will be considered a violation of this Waiver of Waste Discharge Requirements, and is subject to

Regional Water Board enforcement actions. No monitoring and reporting program will be required, as it is not in the public interest.

CEQA Compliance: The City of Santa Rosa, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for an Environmental Impact Report pursuant to CEQA. (SCH# 2002092016; August 2, 2005)

Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23) 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR 23 and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23 and owed by the applicant.

Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into Waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

- 3) Best Management Practices for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.
- 4) All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of grading work.
- 5) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 6) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 7) The overall design and development of Dutton Meadows Phase I Project shall include the post-construction storm water BMPs outlined in the *Preliminary Storm Water Pollution Mitigation Plan for the Minoia Property*, with maps updated in February 2006, that have been prepared by Civil Design Consultants, Inc. for incorporation into the project to mitigate for storm water discharges associated with post-development of the site. BMPs shall be implemented into the project, as proposed by the project applicant and Civil Design Consultants, Inc., and as outlined above in the non-compensatory mitigation section of this order.
- 8) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

- 9) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

- 10) The overall design and development of the Dutton Meadows Phase I Project shall include pre- and post-construction storm water BMPs. The Applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) for approval by Regional Water Board staff prior to the commencement of construction activities, including grading and/or filling of seasonal wetland habitat.
- 11) The Applicant shall provide as-built plans for the Detention Basin (Parcel D) after installation to the appropriate Regional Water Board staff person, in order to document compliance.

**Water Quality
Certification:**

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from Dutton Meadows Phase I Project (WDID No. 1B01099WNSO) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)] , and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017- DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (Enclosed).

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on October 15, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify John Short at (707) 576-2065 and in writing prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification.

cc: Mr. Oscar Balaguer, SWRCB, 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

Mr. Philip Shannin, U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street, San Francisco, CA 94105

Mr. Vincent Griego, Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room 2605, Sacramento, CA 95815

City of Santa Rosa Department of Community Development, 100 Santa Rosa Ave., P.O. Box 1678, Santa Rosa, CA 95402-1678

Mr. Kevin Doble, Sonoma County Permit and Resources and Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403

Mr. Jeff Olberding, Olberding Environmental, 3127 Vistamont Drive, Suite 100, San Jose, CA 95118